

Information or data that is electronically downloaded is not considered the transfer of tangible personal property in this State. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

June 27, 2007

Dear Xxxxx:

This letter is in response to your letter dated December 5, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

On behalf of our client (Company A), we respectfully request written advice on the taxability of their electronic filing service provided to customers in your jurisdiction. As background, Company A is a financial printer and is registered for sales and use tax purposes in your state. These services are provided to non-print clients, and do not involve the delivery of printing or other tangible personal property.

On a periodic basis companies (primarily public companies) are required to file various financial documents with the Security Exchange Commission ('SEC'). The service in question includes the generation and electronic filing of this financial information. Our electronic filing services include obtaining financial information from the customer in an electronic format, converting such customer furnished information (received in word, excel or PowerPoint format) into an HTML SEC compliant file and submitting electronically to the SEC. Prior to submission, the HTML file is sent to the customer electronically for approval (PDF document). Upon customer approval, the file is electronically transmitted to the SEC. Neither the customer nor the SEC obtains any tangible personal property during the filing process. The electronic document is the only item sent to the customer or SEC.

Please confirm the taxability of this service in your state. If these services are deemed taxable in your state, please advise [sic] us on the proper sourcing of the tax under the

following situations: 1) Customer and Taxpayer located in-state; 2) Taxpayer in-state and Customer out-of-state; and 3) Customer in-state and Taxpayer out-of- state.

Thank you in advance for your assistance with determining the proper taxability of the above service. If you have any questions or require additional information, please contact me.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

Information or data that is electronically transferred or downloaded is not considered the transfer of tangible personal property in this State. See 86 Ill. Adm. Code 130.2105(a)(3). Please note that canned computer software is considered tangible personal property regardless of the form in which it is transferred or transmitted, including tape, disc, card, electronic means or other media. See 86 Ill. Adm. Code 130.1935.

It is our understanding that the electronic transfer of HTML or PDF documents involve only the transfer of data or information and do not involve the electronic transfer of computer software. In such instances, the electronic transfer of such documents is not subject to Retailers' Occupation Tax or Use Tax liability in this State.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk